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DISTRICT OF DELAWARE

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In re:

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W.R. GRACE & CO., et al.,

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Debtor.

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DEPOSITION OF: WILLIAM G. HUGHSON, M.D.

16

Taken on: Friday, June 6, 2003

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Taken at: 3777 La Jolla Village Drive

18

Reported by: Veronica S. Thompson

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CSR No. 6056, RPR, CRR

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A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO

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1 three negatives? There are two in the questions and one
2 in the answer.

3 THE WITNESS: To clarify it, I have no
4 independent reason or no objective data to conclude that
5 the dust, the asbestos dust that might be liberated by
6 disturbing ZAI would be nonrespirable. Okay. I
7 would -- I would expect that at least some of it would
8 be respirable based on the information I have.

9 BY MR. WARD:

10 Q Okay. In your report you state that there's
11 no peer-reviewed study linking exposure to ZAI to
12 disease. Would you agree with me that the asbestos
13 content of ZAI is something that has only recently been
14 brought to the public's attention?

15 MR. FLATLEY: Object to the form.

16 THE WITNESS: I think that that's probably --
17 you know, by recently, I mean, my understanding is that
18 the EPA first went into Libby in 1999 -- so that's about
19 14 years ago. No. Excuse me. It's about four years
20 ago -- and that the sort of downstream concern about
21 attic insulation probably followed that. So, yeah, it
22 is a reasonably recent event.

23 BY MR. WARD:

24 Q When were you first made aware of the issue of
25 whether or not Zonolite Attic Insulation contained

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1 asbestos?

2 A Well, I don't know if I can answer that. I've
3 certainly been aware for a long time that vermiculite
4 was used for that purpose, and I don't know whether I
5 ever worried about it very much, but I always kind of
6 assumed that there would be some level of tremolite in
7 that material. But when did it really percolate to the
8 top of my attention? Probably around the time of the
9 Barbanti trial because that was -- you know, it was a
10 full-blown issue by that point.

11 Q Do you know whether or not Grace was ever able
12 to produce a bag of Zonolite attic insulation that
13 didn't contain some amount of tremolite?

14 A No.

15 Q I'm sorry?

16 A No, I'm not aware that they ever did or they
17 ever even tried. I would expect with this kind of
18 processing that at some point you just get to, you know,
19 diminishing returns where you could reprocess it forever
20 and eventually get down to a negligible change, but I
21 don't know what Grace did or didn't do with regard to --
22 to getting tremolite out of Zonolite. I just don't
23 know.

24 Q How would you propose -- if you set about to
25 do it, how would you propose to set up an

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1 You can also have what are called cleavage
2 fragments, which I believe are -- may be derived
3 originally from fibers but are created because of
4 fracturing or breaking up of the tremolite fibers
5 presumably at least during the extraction of the ore or
6 the processing of the ore.

7 If there are other reasons -- if there are
8 other causes of cleavage fragments, I can't think of
9 them right now, but in the end point you have something
10 which is different from a mineralogic point of view than
11 in the original fiber. And it's Dr. Ilgren's opinion
12 from my understanding that those cleavage fragments
13 behave differently because they don't bio-persist and
14 perhaps because of other factors. And I haven't labored
15 over the fact of Dr. Ilgren's opinion because that's his
16 area and not mine.

17 I can't tell you of a million tremolite fibers
18 in Zonolite what percentage of them are going to be
19 cleavage fragments versus fibers. You just don't know.

20 Q Let me hand you, Doctor, what -- this is a
21 copy of your -- the deposition that you gave in the
22 Barbanti case. I just want to go through a few items
23 with you here.

24 Let me -- did I hand --

25 MR. FLATLEY: I have the highlighting.

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1 MR. WARD: Can I have my copy back? I'm not
2 going to make it quite that easy, but I will give you
3 page numbers.

4 MR. FLATLEY: I thought maybe I could take
5 over and ask questions for a while.

6 BY MR. WARD:

7 Q Doctor, if I could refer you to page 22.

8 A Okay.

9 Q And the first full question -- I'll just read
10 it to you -- it says "Doctor, maybe we can save some
11 time. You don't expect to testify, I take it then, that
12 the tremolite and the vermiculite at Libby, Montana, and
13 in attic insulation is predominantly cleavage
14 fragments?"

15 Your answer was "No, I don't."

16 And my question is, has your opinion on this
17 issue, to the extent you have one, changed from the time
18 you testified in the Barbanti case until today?

19 A No. I don't have any more information now
20 than I had then.

21 Q And I believe you testified earlier in your
22 deposition that you've never conducted any microscopic
23 research to differentiate between asbestiform fiber
24 versus non-asbestiform cleavage fragments?

25 A Correct.

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1 Q Have you ever had occasion to look at Libby
2 tremolite under the microscope?

3 A No, other than in pictures that I've seen.

4 Q Just so I'm clear, you don't dispute that
5 there is some asbestiform tremolite in the Libby
6 vermiculite. And I recognize that you aren't prepared
7 to testify about percentages. You don't disagree there
8 is some fibrous tremolite in the Libby vermiculite?

9 A No, I don't. And in light of the Wright
10 article, it would be hard for me to argue about that.

11 Q Do you have any opinions as to the health
12 effects from exposure to cleavage fragments?

13 A I've testified about this before. I think
14 that I'm mostly interested in particles that are long,
15 respirable, and durable. And I think that if a fiber
16 fits those criteria and there's sufficient exposure,
17 then at least in my mind there's a potential for
18 disease.

19 It's my understanding that -- I mean, I have
20 looked at some of the articles that have been -- and I'm
21 blocking on it now. I think Morgan, Keith Morgan
22 published a bit on this and pointed out that, you know,
23 there's really an absence of data indicating that
24 cleavage fragments cause disease. And I believe
25 Dr. Ilgren spent a day or so possibly with you

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1 Q Right.

2 A The issue is, are there cases where women have
3 been described as getting mesothelioma from cleaning
4 their husbands clothes? Yes. Once the stuff gets in
5 the home, you know, this is talked about.

6 So I think the concept back 10 years ago, was
7 this being discussed as a mechanism of exposure?

8 Answer: Yes.

9 Q Let's get back to my example of ZAI spilled in
10 the living space of a home. Is it your opinion that,
11 for example, if the homeowner swept it up without using
12 any sort of wet method, is it your opinion that whatever
13 dust is left in the living space that's on the floor,
14 there's no potential for that dust to be re-entrained by
15 subsequent sweeping or vacuuming?

16 A No, I wouldn't say no potential, but I'd say
17 quite limited potential. It's obviously a function of
18 how good you are at cleaning things up. I mean, if
19 you're sloppy and leave a lot of the residue there, then
20 for some time it could be disturbed again. There could
21 be walking on it.

22 I mean, if you're talking about a real world
23 scenario where it's in the middle of the living room rug
24 and you have any kind of concern about the appearance of
25 your house, you're probably going to clean it up, and I

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1 think the re-entrainment is going to be a limited -- of
2 limited potential.

3 And we know this to be true because of the air
4 sampling that's been done in homes that contain this
5 stuff. I mean, that -- the Lees article, I mean, they
6 went through all kinds of exercises: opening the attic,
7 closing the attic, going up in the attic and down in the
8 attic, and then looking at the levels of asbestos
9 throughout the home and the living spaces adjacent to
10 where the work was being done. There was no increased
11 level of asbestos.

12 Q Dr. Hughson, do you not think it would be
13 important for purposes of the opinions that you're
14 giving in this case to look at the same types of
15 simulation tests done by the claimants' experts?

16 A I don't mind looking at them. I haven't
17 looked at them or been provided with them today.
18 Whether I will subsequently be given them, I don't know.
19 I would expect, you know, at trial that I would be
20 talking about, from a pulmonary and occupational
21 medicine point of view, an epidemiologic point of view,
22 about exposure levels and subsequent risks.

23 You know, I may be asked to make assumptions
24 about the levels of exposure on direct, and you may, at
25 cross examination, want to give me some different